**FBD Draft: [ ] March 2016**

**AGREEMENT OF PURCHASE AND SALE**

**BY AND BETWEEN**

**SB PARTNERS SIF SICAV S.A.**

**AS BUYER**

**AND**

**ANZ STAFF SUPERANNUATION (AUSTRALIA) PTY LTD**

**AS SELLER**

**DATED AS OF MARCH 31, 2016**

**AGREEMENT OF PURCHASE AND SALE**

This agreement of purchase and sale, dated as of March 31, 2016 (this “Purchase Agreement”), is by and between: (i) **SB PARTNERS SIF SICAV S.A.**, a *société anonyme* organised in and under the laws of the Grand Duchy of Luxembourg (the “Buyer”); and (ii) **ANZ STAFF SUPERANNUATION (AUSTRALIA) PTY LTD**, an Australian proprietary limited company (the “Seller”), each a “party” and together, the “parties”.

**W I T N E S S E T H:**

**WHEREAS**, the Seller is the sole legal and beneficial owner of the Interests and is entitled to sell the full legal and beneficial ownership of the Interests.

**WHEREAS,** theBuyer desires to purchase from the Seller, and the Seller desires to sell to the Buyer, the Interests, upon the terms and subject to the conditions set out in this (the Mikhail) Purchase Agreement.

**NOW THEREFORE**, in consideration of the mutual agreements, covenants, warranties and indemnities contained in this Purchase Agreement, the parties agree as follows:

1. Definitions.

1.1. In this Purchase Agreement, including the Recitals, unless the context otherwise requires, the expression set out after the name and particulars of each party identifies that particular party and the following words and expressions shall have the following meaning:

* 1. “Affiliate”, in relation to any party, means any Subsidiary or Parent Company of that party and any Subsidiary of that Parent Company, in each case from time to time;
  2. “AIV” means an alternative investment vehicle, special purpose feeder investment vehicle or similar entity.
  3. “Adjustment Amount” has the meaning given in Clause 6(f).
  4. “Adjustment Notice” has the meaning given in Clause 6(d).
  5. "Agreed Form" means, in relation to any document, the form of that document as initialled, or otherwise identified in a manner agreed by or on behalf of each of the Seller and the Buyer (in each case with such amendments as may be agreed in writing by or on behalf of each of the Seller and the Buyer).
  6. “Approvals” means the GP Consents, the Director Consents, and any other consents, waivers and approvals which are required to consummate the Proposed Transactions.
  7. “Assignment Agreements” means the assignment and assumption agreements or similar agreements or deeds providing for the transfer of those Interests that constitute limited partner interests in the Partnerships to, and the assumption of all rights and obligations relating to such Interests by, the Buyer, in the Agreed Form.
  8. “Assumed Obligations” has the meaning given in Clause 4(a).
  9. “Base Purchase Price” means, with respect to each Interest, the amount set out opposite the name of such Interest in Schedule I.
  10. “Business Day” means a day, other than a Saturday, Sunday or public holiday in Luxembourg or Victoria, Australia, on which banks are open in Luxembourg and Melbourne for general corporate business.
  11. “Buyer Transaction Document Warranties” means any warranties given by the Buyer (or any of its Affiliates) to the Seller under any of the Transaction Documents.
  12. “Buyer Warranties” means the warranties set out in Clause 8.
  13. “Capital Account Balance” means, with respect to each Interest and each Partnership, the Seller’s capital account balance in such Partnership as determined by the GP of such Partnership and reported as of the Cut-Off Date, as set out in Schedule I.
  14. “Claims” has the meaning given in Clause 13(a).
  15. “Closing” means the completion of the sale and purchase of the Interests in accordance with this Purchase Agreement.
  16. “Closing Date” means the date upon which Closing shall take place as set out in Clause 5(a).
  17. “Commitment” means, with respect to each [Partnership], the amount that the Seller has committed to contribute to that Partnership[[1]](#footnote-1) pursuant to the relevant [Partnership Documentation], such amount set out in respect of each Partnership Interest in Part A of Schedule I.
  18. “Companies” means the companies listed in Part B of Schedule I, as constituted by the applicable Company Documentation.
  19. “Company Documentation” means the Fund Documentation in respect of the Companies listed in Schedule II.
  20. “Conditions” means the conditions to Closing as set out in Clause 12.
  21. “Confidential Information” means any information supplied by either party, or any of their respective Connected Persons to the other party and any of its Connected Persons, whenever and in whatever form, in connection with this Purchase Agreement and the Proposed Transactions, including any information:
      1. relating to either party or any of its respective Connected Persons;
      2. contained or reflected in any report or other material prepared by or for either party or any of their respective Connected Persons; and
      3. relating to the existence and provisions of, or the negotiations leading to, this Purchase Agreement and the other Transaction Documents,

and includes written information and information transferred or obtained orally, visually, electronically or by any other means and any information that the receiving party has derived from information in (i) to (iii) (inclusive);

* 1. “Confidentiality Agreement” means any confidentiality agreement or undertaking required to be entered into or given by the Buyer in accordance with the Company Documentation.
  2. “Connected Persons” means, in relation to a party, any Affiliate of that party and any director, officer, employee, member, agent, adviser, representative, successors and assigns.
  3. “Contributions” means [the aggregate amount contributed by the Seller in respect of its Commitments or paid to a GP or its Affiliates in respect of management fees or similar charges whether attributable to a period before or after the Cut-Off Date in accordance with the relevant Fund Documentation as at the relevant date (including, for the avoidance of doubt, the amount of any Contributions deemed to have been paid, but which were not actually paid to a Fund) by the terms of the relevant Fund Documentation, (other than payments or deemed payments on account of tax liabilities of the Seller attributable to the ownership by the Seller of the relevant Interest for periods prior to the Closing Date).]
  4. “Contributions Since the Cut-Off Date” means any Contributions made by the Seller after the Cut-Off Date and prior to the Closing Date. The Contributions made by the Seller after the Cut-Off Date and prior to the date of this Purchase Agreement are, with respect to each Interest [in the Partnerships], the amount set out in Schedule I.
  5. [“Conversion Rate” means [the close spot mid-trade composite (London) rate for a transaction between the € and $ as quoted on Bloomberg at 11:00 am GMT on the date immediately preceding the Closing Date or, if no such rate is quoted on that date, on the preceding date on which such rates are quoted.]]
  6. [“Converted Purchase Price” means a [€] amount calculated as follows: (i) each Individual Purchase Price comprising part of the Purchase Price that is not already a [€] amount shall be converted from [$] amount to a [€] amount at the Conversion Rate[[2]](#footnote-2) (each a “converted amount”); and (ii) each converted amount shall be aggregated with each Individual Purchase Price comprising part of the Purchase Price that is already a [€] amount, such that a single [€] amount may be ascertained as constituting the Converted Purchase Price.]
  7. “Cut-Off Date” means September 30, 2015.
  8. “Deferred Payment” has the meaning given in Clause 6(f)(iii).
  9. “Director” means with respect to each Company, the directors of such Company and/or such other person or organ of the Company that controls the management of the Company, as applicable.
  10. “Director Consents” means in relation to each of the Companies the consents which are required pursuant to the terms of the Company Documentation in order to permit the Proposed Transactions.
  11. “Dispute Notice” has the meaning given in Clause 6(e).
  12. “Disputed Items” has the meaning given in Clause 6(e).
  13. “Distributions” means, without duplication, all distributions (whether in cash or in-kind), dividends, interest and payments of cash, securities or other property paid or made with respect to the Interests or deemed made pursuant to the Fund Documentation after the Cut-Off Date and on or prior to the Closing (but net of any such distributions, dividends, interest and payments which the Seller has been required to return to the relevant Fund after the Cut-Off Date and on or prior to the Closing). The value of all “in-kind” payments, dividends or other distributions received by the Seller from or on behalf of a Fund for the purposes of this definition shall be the value assigned thereto as of the date of distribution by the relevant GP or Directors, as applicable.
  14. “Distributions Since the Cut-Off Date” means any Distribution received by the Seller after the Cut-Off Date and prior to the Closing Date. The Distributions received by the Seller after the Cut-Off Date and prior to the date of this Purchase Agreement are, with respect to each Interest, the amount set out in Schedule I.
  15. “Escrow Account” means the account to be opened in accordance with the Escrow Agreement.
  16. “Escrow Agent” means [Société Générale Bank & Trust, Luxembourg].
  17. “Escrow Agreement” means the escrow agreement, the Agreed Form of which is set out in Schedule V.
  18. “Excluded Interest” means any Interest with respect to which either:
      1. the Seller has elected to treat such Interest as an Excluded Interest because the GP has refused to provide the requisite GP Consent or any other required Approval (as required under Clause 12(a)(i) and Clause 12(a)(ii), respectively) on or prior to [long stop date];
      2. the Seller and the Buyer have mutually agreed in writing to treat such Interest as an Excluded Interest;
      3. such Interest has not been transferred to the Buyer on or prior to [long stop date] (unless the Buyer and the Seller mutually agree otherwise in writing prior to such date); or
      4. the Buyer has elected to treat such Interest as an Excluded Interest pursuant to Clause 5(c).
  19. “Excluded Obligations”[[3]](#footnote-3) has the meaning given in Clause 4(b).
  20. “Fund Documentation” means the documentation listed in Schedule II.
  21. “Funds” means the Partnerships and the Companies.
  22. “Governmental Authority” means any administrative, executive, judicial, legislative, regulatory, licensing, competition or other governmental authority (including any Tax Authority) having applicable jurisdiction.
  23. “GP” means with respect to each Partnership, the general partner of such Partnership and/or such other person that controls the management of the Partnership, as applicable.
  24. “GP Consents” means in relation to each of the Partnerships the consents which are required pursuant to the terms of the Partnership Documentation in order to permit the Proposed Transactions.
  25. “Individual Purchase Price” has the meaning given in Clause 6.
  26. “Indemnitee” has the meaning given in Clause 14(a).
  27. “Indemnitor” has the meaning given in Clause 14(a).
  28. “Initial Payment” has the meaning given in Clause 6(c)(i).
  29. “Interests” means the limited partnership interests in the Partnerships and the shares in the Companies owned by the Seller and listed in Schedule I (excluding, for the avoidance of doubt, any rights, entitlements or obligations pursuant to any Side Letter).
  30. “Law” means any statute, law, regulation, guideline, ordinance, code or rule of law issued, administered or enforced by any Governmental Authority, and any judicial or administrative interpretation of any of these.
  31. “Lien” means any lien, pledge, claim, security interest, encumbrance, charge, restriction, or other limitation of any kind, whether arising by agreement, operation of law or otherwise, excluding any of the aforementioned that exist under any Fund Documentation and, for the avoidance of doubt, pursuant to the Security Documentation.
  32. “Losses” has the meaning given in Clause 13(a).
  33. “Offshored Document” has the meaning given in Clause 5(f).
  34. “Offshoring Guidelines” means the guidelines as set out in Schedule VI.
  35. “Parent Company” means any company that, in relation to another company (its “Subsidiary”):
      1. holds a majority of the voting rights in the Subsidiary;
      2. is a shareholder of the Subsidiary and has the right to appoint or remove a majority of its board of directors;
      3. is a shareholder of the Subsidiary and controls a majority of the voting rights in it under an agreement with other members; or
      4. has the right to exercise a dominant influence over the Subsidiary under the Subsidiary’s articles or a contract authorised by its shareholders,

in each case, whether directly or indirectly through one or more companies or other entities.

* 1. “Partnership Documentation” means the Fund Documentation in respect of the Partnerships listed in Schedule II.
  2. “Partnerships” means the limited partnerships listed in Part A of Schedule I, as constituted by the applicable Partnership Documentation.
  3. “Pledge Agreement” means the Agreed Form of the pledge agreement, as set out in Schedule IV.
  4. “Pledged Interests” has the meaning given in Clause 6(f)(vi).
  5. “Pre-Closing Notice” has the meaning given in Clause 5(b).
  6. “Proposed Transactions” means each of the transactions contemplated by the Transaction Documents.
  7. “Purchase Price” has the meaning given in Clause 6.
  8. “Representatives” has the meaning given in Clause 15(a).
  9. “Security Agreements” means the [Security Legal Opinion], Escrow Agreement and the Pledge Agreement.
  10. [“Security Legal Opinion” means the legal opinion, in the Agreed Form attached hereto at Schedule [ ], to be provided by [ ];]
  11. “Seller Warranties” means the warranties set out in Clause 7.
  12. “Senior Executives” has the meaning given in Clause 18(g).
  13. “Side Letter” means any document containing any rights or entitlements (“Side Letter Rights”) or obligations of the Seller or its Affiliates as regards the Interests not arising under the Fund Documentation but separately pursuant to a side arrangement or special consent of a GP or a Director which are otherwise attributable to the Seller or its Affiliates because of their particular character or nature or by virtue of arrangements other than their investment in the Partnership or Company, as applicable.
  14. “Stock Transfer Forms” means the stock transfer forms or similar agreements or deeds providing for the transfer of those Interests that constitute shares in the Companies from the Seller to the Buyer, in the Agreed Form.
  15. “Subscription Booklets” means any subscription booklet, application form or similar agreements or deeds required to be executed by the Buyer in accordance with the terms of the Fund Documentation in connection with the acquisition of the Interests.
  16. “Surviving Provisions” means Clauses 1, 15, 18(a), 18(b), 18(c), 18(f), 18(i), 18(k), 18(m), 18(n), 18(o), 18(p) and 18(t).
  17. “Tax” means: (a) taxes on income, profits and gains; and (b) all other taxes, levies, duties, imports, charges and withholdings in the nature of taxation including, VAT, any excise, property, transfer, franchise and payroll taxes and any national insurance or social security contributions, together with all penalties, charges and fees and interest relating to any of these or to any late or incorrect return in respect of any of them.[[4]](#footnote-4)
  18. “Tax Authority” means any taxing or other authority competent to impose any Tax liability, or assess or collect any Tax.
  19. “Title Warranty” means the warranty given by the Seller to the Buyer that the Seller has the right to transfer ownership and that no one else has rights to the Interests.
  20. “Third Party Claim” has the meaning given in Clause 14(a).
  21. “Transaction Documents” means [this Purchase Agreement, the Agreed Form documents referred to in this Purchase Agreement (being the GP Consents, the Director Consents, the Assignment Agreements, the Subscription Booklets, the Confidentiality Agreements, the Stock Transfer Forms and the Security Agreements)].
  22. “Transfer Taxes” means all stamp, registration, or other documentary, transfer or transaction duties, stamp duty reserve tax, stamp duty land tax and any other transfer taxes and all notarisation fees, including in each case any related interest or penalties, arising in connection with the entry into or implementation of this Purchase or any of the Transaction Documents or any of the transactions contemplated therein.
  23. “VAT” means value added tax and any similar sales or turnover tax.

1. Interpretation.

In this Purchase Agreement, unless the context requires otherwise:

* 1. references to a “person” include any individual, firm, body corporate (wherever incorporated), government, state or agency of a state or any joint venture, association, partnership, works council or employee representative body (in any case, whether or not it has separate legal personality);
  2. any statement in the Purchase Agreement qualified by the expression “so far as the Seller is aware” or “to the Seller’s knowledge or any similar expression shall be deemed only to be made on the basis of the actual knowledge, at the relevant date, of [the directors of the Seller] and shall carry no requirement to make enquiries of any other person.
  3. any statement in the Purchase Agreement qualified by the expression “so far as the Buyer is aware” or “to the Buyer’s knowledge or any similar expression shall be deemed only to be made on the basis of the actual knowledge, at the relevant date, of [the directors of the Buyer] and shall carry no requirement to make enquiries of any other person.
  4. references to an individual or a natural person include his estate and personal representatives;
  5. references to a party to this Purchase Agreement include the successors (immediate or otherwise) of that party;
  6. the headings of the Clauses and Sub-Clauses of this Purchase Agreement are inserted for convenience only and shall not constitute a part of or affect in any way the meaning or interpretation of this Purchase Agreement;
  7. a reference to a Clause, Sub-Clause or Schedule is a reference to a Clause, Sub-Clause or Schedule to this Purchase Agreement;
  8. the words “include,” “includes” and “including” when used in this Purchase Agreement shall be deemed in each case to be followed by the words “without limitation”;
  9. defined terms shall have the same meaning whether defined or used herein in the singular or the plural, as the case may be;
  10. references to any English law legal term or concept shall, in respect of any jurisdiction other than England and Wales, be construed as references to the term or concept that most nearly corresponds to it in that jurisdiction;
  11. references to € and $ or euros and dollars are references to the lawful currency from time to time of the member states of the European Union and the United States of America, respectively;
  12. any reference, express or implied, to an enactment (which includes any legislation in any jurisdiction) includes:
      1. that enactment as amended, extended or applied by or under any other enactment (before or after signature of this Purchase Agreement);
      2. any enactment which that enactment re-enacts (with or without modification); and
      3. any subordinate legislation made (before or after the date of this Purchase Agreement) under that enactment, including (where applicable) that enactment as amended, extended or applied as described in Sub-Clause (i), or under any enactment which it re-enacts as described in Sub-Clause (ii), except to the extent that any legislation or subordinate legislation made or enacted after the date of this Purchase Agreement would create or increase the liability of any party under this Purchase Agreement;
  13. the Schedules comprise schedules to this Purchase Agreement and form part of this Purchase Agreement; and
  14. if there is any inconsistency between any definition set out in this Schedule and a definition set out in any Clause or any other Schedule, then, for the purposes of construing that Clause or Schedule, the definition set out in that Clause or Schedule shall prevail.

1. Sale and Purchase of the Interests.

Subject to the terms and conditions of this Purchase Agreement, and in reliance on the warranties, covenants and agreements in this Purchase Agreement, with effect from the Closing Date the Seller shall sell, assign, transfer and deliver to the Buyer, and the Buyer shall purchase and acquire from the Seller, the legal and beneficial title to the Interests, free and clear of all Liens and with all rights then attaching to them, but subject always to the terms of the Fund Documentation.

1. Assumed and Excluded Obligations
   1. Subject to the terms of this Purchase Agreement, from and after the Closing Date the Buyer shall expressly assume and be solely responsible for:
      1. all of the Seller’s commitments and obligations as a limited partner or shareholder, as applicable, in respect of the Interests and the Funds pursuant to the Fund Documentation or otherwise (but excluding any Side Letters) (other than such as comprise Excluded Obligations) and in respect of any failure by the Buyer to perform any such commitment or obligation; and
      2. any liabilities for taxes in respect of the Interests (other than such as comprise Excluded Obligations),

whether arising on or before or after the Closing Date, such obligations and liabilities being the “Assumed Obligations”.

* 1. Notwithstanding Clause 4, the Buyer shall not, directly or indirectly, assume and shall not in any way be or become responsible for, and the Seller shall remain responsible for:
     1. any liabilities or obligations arising from the Seller’s breach of the warranties, covenants or agreements made by it under the Fund Documentation;
     2. any tax liabilities of the Seller (whether arising from or in connection with the transfer or ownership of the Interests or in respect of any allocation of profits or gains or Distributions made by or in respect of the Funds on or prior to the Closing Date) (including that portion of Transfer Taxes assumed by the Seller pursuant to Clause 10(h)(ii)), all of which shall remain the liabilities of the Seller;[[5]](#footnote-5)
     3. any obligation to return to a Fund any Distribution actually received by the Seller on or prior to the Cut-Off Date [(except to the extent that such Distribution has been, or may subsequently be, added back to the undrawn Commitment in respect of the relevant Interest)] which arises pursuant to the Fund Documentation;
     4. any obligation under any Side Letter; and
     5. any liability or obligation in respect of an Excluded Interest,

such obligations and liabilities being the “Excluded Obligation”.

1. Closing.
   1. Subject to the satisfaction or waiver of the Conditions, Closing shall take place on June 30, 2016 or such other date mutually agreed in writing between the Seller and the Buyer, provided that such date shall be (unless agreed otherwise in writing between the parties) no later than [long stop date].
   2. At least [two (2) Business Days] prior to the proposed Closing Date, the Seller shall deliver to the Buyer a notice (a “Pre-Closing Notice”) setting forth:
      1. the Closing Date for the Closing;
      2. the Interests to be transferred to the Buyer at Closing, which shall include all Interests other than those Interests which have become Excluded Interests;
      3. the aggregate amount of all Contributions Since the Cut-Off Date and the aggregate amount of all Distributions Since the Cut-Off Date with respect to the Interests (other than those Interests which have become Excluded Interests);
      4. the Seller’s calculation of the estimated Individual Purchase Price with respect to each Interest (other than those Interests which have become Excluded Interests) and the Purchase Price, based upon the estimated Individual Purchase Prices, as determined in accordance with Clause 6;
      5. the Seller’s calculation of the estimated Initial Payment and the estimated Deferred Payment as determined in accordance with Clause 6; and
      6. any change to the wire instructions set out in Schedule III for the accounts designated by the Seller to which the Initial Payment shall be paid.
   3. Not less than [two (2) Business Days] prior to the proposed Closing Date, the Seller may deliver a notice in writing to the Buyer containing reasonable details of an event occurring or a matter arising with respect to any Interest after the date of this Purchase Agreement and before the proposed Closing Date which, but for Clause 9(c)(ix), would give rise to any claim in respect of the Seller Warranties, which notice shall contain an offer to treat the relevant Interests as Excluded Interests. The Buyer shall have [one (1) Business Day] to send written notice by pdf attachment to the Seller of its election whether to treat any of such Interests as an Excluded Interest.
   4. At Closing, the Seller shall deliver or cause to be delivered to the Buyer:
      1. a counterpart of each Assignment Agreement required to be executed by the Seller in respect of the transfer of each of Partnership Interests, duly executed by the Seller; and
      2. a counterpart of each Stock Transfer Form required to be executed by the Seller in respect of the transfer of each of the Company Interests, duly executed by the Seller.
   5. At closing, the Buyer shall:
      1. deliver or cause to be delivered to the Seller a counterpart of:
         1. each Assignment Agreement required to be executed by the Buyer in respect of the transfer of each of Partnership Interests, duly executed by the Buyer;
         2. each Stock Transfer Form required to be executed by the Buyer in respect of the transfer of each of the Company Interests, duly executed by the Buyer; and
         3. the relevant Subscription Booklets required to be executed by the Buyer in respect of the transfer of the Partnership Interests, duly executed by the Buyer.
      2. deliver or cause to be delivered to each Director a counterpart of the relevant Confidentiality Agreement required to be executed by the Buyer in respect of the transfer of the Company Interests, duly executed by the Buyer; and
      3. pay to the Seller the estimated Initial Payment, as specified in the Pre-Closing Notice.
   6. Subject to Sub-Clause (g) below, unless agreed otherwise in writing by the parties, all documents entered into and exchanged in connection with the consummation of the Proposed Transactions, including the Assignment Agreements (the “Offshored Documents”) shall be entered into and exchanged outside the United Kingdom, and following execution the parties shall maintain all Offshored Documents outside the United Kingdom.
   7. The parties agree that:
      1. any party acting in compliance with the Offshoring Guidelines shall be treated for the purposes of this Purchase Agreement as having discharged all and any of its obligations to enter into, exchange and maintain (in respect of originals and counterparts) Offshored Documents outside the United Kingdom; and
      2. notwithstanding Sub-Clause (f) above, the parties shall be permitted to bring any Offshored Document into the United Kingdom:
         1. where such Offshored Document is required as evidence in proceedings before a court to which the Seller or the Buyer (or any of their [Affiliates][Connected Persons]) is a party and the rules governing the conduct of these proceedings provide that a certified copy of the relevant executed Offshored Document cannot be provided as adequate evidence; or
         2. either the Seller or the Buyer is required to do so under any law, statutory enactment or regulation or by any government or regulatory body which has the power to require them to be brought into the United Kingdom or to effect registration in any register.
2. Purchase Price and Payment Terms.
   1. The purchase price (the “Purchase Price”) payable by the Buyer for the Interests shall be an amount equal to the aggregate of the Individual Purchase Prices in respect of the Interests (excluding any such Interests that become Excluded Interests), as calculated and adjusted in accordance with this Clause 6 (and Clause 13(c) or Clause 9(f), as the case may be). The Purchase Price and any payment by the Buyer under Clause 5(e)(iii) or this Clause 6 shall be payable free and clear of and without deduction or withholding for or on account of Taxes, unless such deduction or withholding is required by law in which case the Buyer shall make any required withholding or deduction on account of such Tax[[6]](#footnote-6).
   2. The Individual Purchase Price for each Interest shall be: (i) the Base Purchase Price of such Interest set out in Schedule I (which was determined as of the Cut-Off Date); plus (ii) an amount equal to the aggregate Contributions Since the Cut-Off Date with respect to such Interest; minus (iii) an amount equal to the aggregate Distributions Since the Cut-Off Date with respect to such Interest (net of any withholding taxes thereon).
   3. The Purchase Price shall be paid as follows:
      1. An initial payment consisting of 1/3rd of each estimated Individual Purchase Price shall be paid by the Buyer to the Seller on the Closing Date (in the relevant currencies[, without conversion of [$] amounts to [€] amounts]), payable by wire transfer according to the wire transfer instructions set out in Schedule III (the “Initial Payment”).
   4. If, following the delivery of the Pre-Closing Notice and prior to the Closing Date, there are any further Contributions Since the Cut-Off Date or Distributions Since the Cut-Off Date, the Seller shall promptly after the Closing Date (and in any event within [five (5)] Business Days of the Closing Date) provide the Buyer with a written notice (an “Adjustment Notice”) specifying the:
      1. revised amounts of the Contributions Since the Cut-Off Date and the Distributions Since the Cut-Off Date with respect to the Interests (other than those Interests which became Excluded Interests);
      2. the Seller’s recalculation of the Individual Purchase Price with respect to each Interest (other than those Interests which became Excluded Interests) and the Purchase Price as determined in accordance with this Clause 6; and
      3. the Seller’s recalculation of the amount of the Initial Payment and the amount of the Deferred Payment as determined in accordance with this Clause 6.
   5. If the Buyer wishes to dispute any of the calculations in the Adjustment Notice, it shall notify the Seller in writing within [five (5)] Business Days setting out reasonable details of the items which it disputes and provide the Seller with any relevant supporting evidence (a “Dispute Notice”). Only those items or amounts specified in such Dispute Notice shall be treated as being in dispute (the “Disputed Items”). If the Buyer serves a Dispute Notice, then the parties shall each use their reasonable endeavours to resolve the applicable Disputed Items and either:
      1. if the parties reach agreement on such Disputed Items within [five (5)] Business Days following delivery of such Dispute Notice (or such longer period as the parties may agree in writing), such Adjustment Notice shall be amended to reflect such agreement; or
      2. if the parties are unable to reach an agreement in accordance with Sub-Clause (e) above on such Disputed Items, the parties shall escalate the Disputed Items in accordance with Clause 18(g) and the Adjustment Notice shall be amended accordingly following such escalation.[[7]](#footnote-7)
   6. If the revised Initial Payment specified in the Adjustment Notice (as amended following any agreement or escalation in accordance with Sub-Clause (e) above, if applicable) is an amount:
      1. greater than the estimated Initial Payment specified in the Pre-Closing Notice, the Buyer shall pay to the Seller [within five (5) Business Days] of delivery (or agreement, in the case of any Disputed Items) of the Adjustment Notice such amount as is equal to the revised Initial Payment specified in the Adjustment Notice less the estimated Initial Payment specified in the Pre-Closing Notice; and
      2. less than the estimated Initial Payment specified in the Pre-Closing Notice, the Seller shall pay to the Buyer [within five (5) Business Days] of delivery (or agreement, in the case of any Disputed Items) of the Adjustment Notice such amount as is equal to the estimated Initial Payment specified in the Pre-Closing Notice less the revised Initial Payment specified in the Adjustment Notice,

any such amount being an “Adjustment Amount” and payable by wire transfer according to the wire transfer instructions set out in Schedule III;

* + 1. A deferred payment of 2/3rd of the Purchase Price (the “Deferred Payment”) shall be paid by the Buyer to the Seller by no later than the date falling twenty four (24) months after the Closing Date. [The Deferred Payment shall be converted into a single [€] amount, calculated as follows: (i) 2/3rd of each Individual Purchase Price comprising part of the Purchase Price that is not already a [€] amount shall be converted from [$] amount to a [€] amount at the Conversion Rate[[8]](#footnote-8) (each a “converted amount”); (ii) each converted amount shall be aggregated with 2/3rd of each Individual Purchase Price comprising part of the Purchase Price that is already a [€] amount, such that a single [€] amount may be ascertained as constituting the Deferred Payment][[9]](#footnote-9).
    2. For so long as any portion of the Deferred Payment is outstanding, all Distributions made by the Funds shall be paid into the Escrow Account before being released to the Seller in accordance with the terms of the Escrow Agreement and any amounts that are released and paid to the Seller by the Escrow Agent shall reduce the amount of the Deferred Payment accordingly (and shall be deemed to be a payment by the Buyer to the Seller for the purposes of this Sub-Clause (f)). The Deferred Payment shall not give rise to any interest, commission or any kind of compensation whatsoever to the benefit of the Seller. On or prior to the Closing Date, the Seller and the Buyer shall provide each Fund and each GP and Director with the references of the Escrow Account, and shall irrevocably instruct each Fund and each GP and Director to pay any and all Distributions exclusively into the Escrow Account instead of to the Buyer until instructed otherwise by the [Escrow Agent] in accordance with the terms of the Escrow Agreement[[10]](#footnote-10). From and after the Closing Date, for so long as any of the Deferred Payment is outstanding, the Buyer shall promptly notify the Seller if it receives any Distributions by mistake from the Funds and promptly pay any such Distribution [free and clear of any withholding, deduction or set off of any kind] into the Escrow Account (or the relevant part thereof, if the outstanding amount of the Deferred Payment is less than the amount of the applicable Distribution).[[11]](#footnote-11)
    3. If on the date falling twenty four (24) months after the Closing Date a portion of the Deferred Payment is still outstanding, the Buyer shall pay to the Seller an amount equal to such outstanding portion of the Deferred Payment by wire transfer according to the wire transfer instructions set out in Schedule III [and the Seller shall promptly notify the Escrow Agent upon receipt of such amount that the Deferred Payment has been paid in full]. If the Seller receives any amounts from the Escrow Account following the payment of the Deferred Payment, the Seller shall promptly pay such amounts to the Buyer by wire transfer according to the wire transfer instructions set out in Schedule III.
    4. In order to secure the Deferred Payment, Buyer undertakes to pledge the Interests in favour of the Seller (the “Pledged Interests”), pursuant to the terms and conditions of the Pledge Agreement set out in Schedule IV.

1. Warranties of the Seller.

The Seller hereby warrants to the Buyer (other than with respect to any Excluded Interests), as of the date of this Purchase Agreement and as of the Closing Date, as follows:

* 1. Authorisation. The Seller is an entity duly organised and validly existing in good standing under the laws of its jurisdiction of organisation. The Seller has the requisite power and authority to own and hold the Interests, enter into, execute, deliver and, upon receipt of the Approvals, perform all of its obligations under this Purchase Agreement and each of the other Transaction Documents to which the Seller is a party. This Purchase Agreement, and at Closing each other Transaction Document to which the Seller is a party, will constitute valid and binding obligations on it in accordance with their respective terms, except to the extent that enforcement of such obligations may be limited by applicable bankruptcy, insolvency, reorganisation and moratorium laws and other laws relating to or affecting creditors’ rights.
  2. Title to Interest. The Seller is the sole legal and beneficial owner, free and clear of all Liens and (subject to the Approvals being obtained) is entitled to sell and transfer the full legal and beneficial ownership of the Interests to the Buyer on the terms set out in this Purchase Agreement. For the avoidance of doubt, the Seller does not give any warranty of any nature as to the underlying investments held by the Funds.
  3. No Conflicts. Subject to receipt of the Approvals, neither the execution and delivery of the Transaction Documents (other than the Pledge Agreement) to which the Seller is a party nor the performance or consummation by it of the Proposed Transactions will:
     1. conflict with, result in the breach of, constitute a default under or accelerate any rights or obligations under the terms of its constitutional documents or any other material contract agreement, instrument, commitment or restriction binding upon it; or
     2. impose any restrictions upon the ability of the Seller to transfer the Interest being transferred to the Buyer pursuant to this Purchase Agreement.
  4. Agreements and Commitments.
     1. To the best of the Seller’s knowledge having made reasonable enquiries of the GPs and the Directors, other than rights and obligations of the Seller contained in any Side Letter, the Fund Documentation set out in Schedule II constitutes all of the agreements and documents that govern the rights and obligations of the Seller as an investor in each of the Funds.
     2. The Seller has not received notice that:
        1. it is in default under, or breach of, any of the Fund Documentation; or
        2. it is required to return any Distributions or portions of Distributions previously received by it from the Funds;
     3. The Seller has contributed to the Funds[[12]](#footnote-12) all of the amounts which it was required to contribute pursuant to the terms of the relevant Fund Documentation and has made no additional voluntary contributions.
     4. So far as the Seller is aware, the Seller has participated in each investment made by the Partnerships in which the Seller owns an Interest. The Seller has paid or will pay all management fees due and payable by it pursuant to the terms of the relevant Partnership Documentation, including all such fees due and owing prior to the Closing Date.
     5. The Seller has not waived any Distributions or portions of Distributions from any of the Partnerships and has not waived any of its rights with respect to the Interests other than as may be set out in the Fund Documentation.
  5. Litigation. There is no action or suit by the Seller pending or threatened against any other person relating to any of the Interests or the Partnerships and so far as the Seller is aware, there is no litigation pending or threatened (in writing) against it that, upon determination, would call into question the validity, or prevent the consummation of, the Proposed Transactions.
  6. Brokers. Other than Willis Towers Watson, the fees and expenses of which shall be paid by the Seller, no person acting on behalf or under the authority of the Seller is entitled to any broker’s, finder’s or similar fee or commission in connection with the transactions contemplated by this Purchase Agreement, which fees in all events shall be payable by the Seller.
  7. Lists of Distributions, Commitments, etc. So far as the Seller is aware, having made reasonable enquiry of the relevant GP and Directors (but not otherwise), Schedule II contains true and accurate lists as of the date of this Purchase Agreement of: (i) the date and value of all Contributions Since the Cut-Off Date, and (ii) the date and value of all Distributions Since the Cut-Off Date.
  8. Certain Conduct. The Seller has not:
     1. forgiven, released or compromised any indebtedness owed to it by any Fund other than upon full payment thereof;
     2. created or permitted to exist any Lien on the Interests (other than the Pledge Agreement);
     3. taken any action or (upon notice from the Funds) failed to take any action that would cause the Seller to incur a penalty or other specified consequence under any of the Fund Documentation; or
     4. agreed to do any of the foregoing.
  9. Bankruptcy. So far as the Seller is aware, no action has been taken by any third party or is pending with respect to the Seller to: (i) institute bankruptcy proceedings; (ii) file for a receivership with respect to the Seller or any of the Seller’s assets; or (iii) take any similar actions in any jurisdiction that could raise any question regarding the validity of the transfers contemplated in this Purchase Agreement. So far as the Seller is aware, no third party has threatened to take any such actions.

1. Warranties of the Buyer.

The Buyer hereby warrants to the Seller, as of the date of this Purchase Agreement and (other than with respect to any Excluded Interest) as of the Closing Date, as follows:

* 1. Authorisation. The Buyer is an entity duly organised and validly existing in good standing under the laws of its jurisdiction of organisation. The Buyer has the requisite power and authority to enter into, execute and deliver this Purchase Agreement and each of the other Transaction Documents to which the Buyer is a party. This Purchase Agreement has been, and at Closing each of the other Transaction Documents to which the Buyer is a party will have been, duly authorised, executed and delivered by it, and this Purchase Agreement, and at Closing each of the other Transaction Documents to which the Buyer is a party will, constitute its valid and binding obligation, enforceable against it in accordance with their respective terms, except to the extent that enforcement of such obligations may be limited by applicable bankruptcy, insolvency, reorganisation and moratorium laws affecting enforcement of creditors’ rights generally.
  2. No Conflicts. Neither the execution and delivery of the Transaction Documents to which the Buyer is a party nor the performance or consummation by it of the Proposed Transactions will conflict with, result in the breach of, constitute a default under, or accelerate the terms of its constitutional documents or any other material contract, agreement, instrument, commitment or restriction binding upon it.
  3. Litigation. So far as the Buyer is aware, there is no litigation pending or threatened (in writing) against it that, upon determination, would call into question the validity, or prevent the consummation of, the Proposed Transactions.
  4. Brokers. The Buyer has not, directly, or indirectly, dealt with anyone acting in the capacity of a finder or broker, nor has Buyer incurred any obligations for any finder’s or broker’s fee or commission, in connection with the Proposed Transactions.
  5. Employee Benefit Plan. The Buyer is not, and is not acting on behalf of, an employee benefit plan subject to Title I of the Employee Retirement Income Security Act of 1974, as amended and/or Section 4975 of the United States Internal Revenue Code of 1986, as amended.
  6. Information. The Buyer has been provided with all the information necessary or appropriate in order to decide whether or not to acquire the Interests. The Buyer has such knowledge and experience in financial, tax and business matters and in making investments of this type that it is capable of evaluating the merits and risks of acquiring the Interests and in connection with this acquisition has not been induced by, and has not relied upon: (i) any representation, warranty, statement or agreement, whether express or implied, and whether made in writing or orally, of the Seller or any of its Connected Persons other than those expressly set out in this Purchase Agreement; or (ii) any other information (including projections, forecasts, budgets and estimates) provided or made available by the Seller or any of its Connected Persons to the Buyer and its Connected Persons or any of their respective Affiliates prior to or concurrently with the execution of this Purchase Agreement.
  7. Sufficient Funds. The Buyer has, and will have as of the Closing Date, available funds sufficient for the payment of the Initial Payment.
  8. Anti-Money Laundering Matters. No part of the funds used by the Buyer to acquire the Interests or to satisfy its Commitment obligations with respect thereto has been, or shall be, directly or indirectly derived from, or related to, any activity that may contravene any applicable laws or regulations, including anti-money laundering laws and regulations and no Commitment, contribution or payment to the Seller or to the Funds by the Buyer shall cause the Seller or the Funds, the GPs or the Directors to be in violation of any applicable anti-money laundering laws or regulations.
  9. Certain Conduct. The Buyer will not create or permit to exist any Lien over the Interests (other than the Pledge Agreement) until such time as the Deferred Payment has been received in full by the Seller.

1. Claims.
   1. The aggregate liability of:
      1. the Seller in respect of all claims under this Purchase Agreement shall not exceed the [Converted] Purchase Price; and
      2. the Buyer in respect of all claims under this Purchase Agreement shall not exceed the [Converted] Purchase Price.
   2. The Buyer acknowledges and agrees that:
      1. the Seller Warranties are the only warranties or other assurances of any kind given by or on behalf of the Seller or any of its Connected Persons, and on which the Buyer may rely in entering into this Purchase Agreement;
      2. the Seller shall have no liability in respect of any Losses with respect to the Seller Warranties unless the Buyer shall have given formal notice in writing to the Seller of such Loss specifying (in reasonable detail) the matter which gives rise to the Loss not later than [one (1) year from the Closing Date], except where such Loss is with respect to the Title Warranty, which shall survive and may be made until the expiration of the relevant period set out in the applicable statute(s) of limitations; and
      3. the Seller shall have no liability in respect of any Loss with respect to the Seller Warranties if proceedings in respect of such Loss have not been commenced by the Buyer against the relevant Seller before the later of: (i) [eighteen (18) months after the Closing Date]; or (ii) [six (6)] months after the giving of notice of such Loss in accordance with Sub-Clause (ii) above (where such Sub-Clause permits notification to be given after [one (1) year from the Closing Date]). For the avoidance of doubt, failure by the Buyer to commence proceedings in respect of any such Loss will not invalidate, or give rise to any right to reclaim amounts previously paid under, any extra-judicial, extra-arbitral or other informal settlement previously entered into by the Buyer. For the further avoidance of doubt, the Seller shall not be liable for any such Loss with respect to any liability which is contingent unless and until such contingent liability becomes an actual liability.
   3. In addition, the Buyer’s ability to bring a claim in respect of Losses under this Purchase Agreement and the Seller’s liability with respect to such Losses shall be further limited as follows:
      1. (other than in the case of the Title Warranty) the Seller shall have no liability in respect of the Seller Warranties if and to the extent that the fact, matter, event or circumstance giving rise to such Loss is fairly disclosed by this Purchase Agreement, the Fund Documentation or any other Transaction Document;
      2. (other than in the case of the Title Warranty) the Seller shall have no liability in respect of the Seller Warranties to the extent the Buyer is (or would be) reasonably able to mitigate any Losses, but for the avoidance of doubt (and without prejudice to Clause 14) the Buyer shall not be obliged to initiate any litigation;
      3. the Buyer shall not be entitled to recover more than once in respect of the same Loss;
      4. if and to the extent that any Losses are in whole or in part recovered by the Buyer from any third party (to the extent that any Losses are recovered from such third party after the Seller has satisfied any warranty claim with respect to such Loss), the Buyer shall reimburse the Seller the relevant amount;
      5. in respect of any Loss in respect of the Seller Warranties (other than with respect to a Loss with respect to the Title Warranty) the Seller shall have no liability unless the aggregate amount of the Losses with respect to such Seller Warranties exceeds [€[ ] ([ ])] (in which case the Buyer shall be entitled to claim only for the excess over [€[ ] ([ ])] of the liabilities incurred);
      6. to the extent that the Loss would not have arisen but for, or has been increased or not reduced as a result of, any voluntary act, omission or transaction, carried out:
         1. after Closing, by the Buyer (or any of its Connected Persons) outside the ordinary and usual course of business as at Closing; or
         2. before Closing, by the Seller at the express written direction, request or with the express written consent of the Buyer (or any of its Connected Persons);
      7. in respect of any Loss in respect of the Seller Warranties, to the extent the Loss is attributable to, or the amount of such Loss is increased as a result of, any:
         1. legislation not in force at the Closing Date;
         2. change of law (or any change in interpretation on the basis of case law), regulation, directive, requirement or administrative practice occurring after the Closing Date; or
         3. change in the rates of taxation in force at the Closing Date;
      8. if and to the extent that a breach of the Seller Warranties is capable of remedy, the Buyer shall only be entitled to compensation if it gives the Seller written notice of the breach and the breach is not remedied within thirty (30) Business Days after the date on which such notice is served on the Seller. Without prejudice to its duty to mitigate any Loss, the Buyer shall provide all reasonable assistance to the Seller to remedy any such breach; and
      9. the Buyer shall have no right to bring a claim in respect of the Seller Warranties in consequence of an event occurring or a matter arising with respect to any Interest after the date of this Purchase Agreement and before Closing which, but for this Sub-Clause (ix), would give rise to any such claim, if the Seller shall, no later than [two (2) Business Days] prior to Closing, have given the Buyer reasonable details of such event or matter in writing and offered to treat the relevant Interest as an Excluded Interest, and the Buyer does not notify the Seller of its election to treat the relevant Interest as an Excluded Interest pursuant to Clause 5(c).
   4. The Seller acknowledges and agree that:
      1. the Buyer Warranties, the Buyer Transaction Document Warranties are the only warranties or other assurances of any kind given by or on behalf of the Buyer or any of its Connected Persons, and on which the Seller may rely in entering into this Purchase Agreement;
      2. the Buyer shall have no liability in respect of any Losses with respect to the Buyer Warranties unless the Seller shall have given formal notice in writing to the Buyer of such Loss specifying (in reasonable detail) the matter which gives rise to the Loss not later than [one (1) year from the Closing Date]; and
      3. the Buyer shall have no liability in respect of any Loss with respect to the Buyer Warranties if proceedings in respect of such Loss have not been commenced by the Seller against the Buyer before the later of: (i) [eighteen (18) months after the Closing Date]; or (ii) [six (6)] months after the giving of notice of such Loss in accordance with Sub-Clause (iii) above (where such Sub-Clause permits notification to be given after [one (1) year from the Closing Date]). For the avoidance of doubt, failure by the Seller to commence proceedings in respect of any such Loss will not invalidate, or give rise to any right to reclaim amounts previously paid under, any extra-judicial, extra-arbitral or other informal settlement previously entered into by the Seller. For the further avoidance of doubt, the Buyer shall not be liable for any such Loss with respect to any liability which is contingent unless and until such contingent liability becomes an actual liability.
   5. In addition, the Seller’s ability to bring a claim in respect of Losses under this Purchase Agreement and the Buyer’s liability with respect to such Losses shall be further limited as follows:
      1. the Buyer shall have no liability in respect of the Buyer Warranties if and to the extent that the fact, matter, event or circumstance giving rise to such Loss is fairly disclosed by this Purchase Agreement or any other Transaction Document;
      2. the Buyer shall have no liability in respect of the Buyer Warranties to the extent the Seller is (or would be) reasonably able to mitigate any Losses, but for the avoidance of doubt (and without prejudice to Clause 14) the Seller shall not be obliged to initiate any litigation;
      3. the Seller shall not be entitled to recover more than once in respect of the same Loss;
      4. if and to the extent that any Losses are in whole or in part recovered by the Seller from any third party (to the extent that any Losses are recovered from such third party after the Buyer has satisfied any claim with respect to such Loss), the Seller shall reimburse the Buyer the relevant amount;
      5. in respect of any Loss in respect of the Buyer Warranties, the Buyer shall have no liability unless the aggregate amount of the Losses with respect to such Buyer Warranties exceeds [€[ ] ([ ])] (in which case the Seller shall be entitled to claim only for the excess over [€[ ] ([ ])] of the liabilities incurred);
      6. to the extent that the Loss would not have arisen but for, or has been increased or not reduced as a result of, any voluntary act, omission or transaction, carried out:
         1. after Closing, by the Seller [(or its directors, employees or agents or successors in title)] outside the ordinary and usual course of business as at Closing; or
         2. before Closing, by the Buyer at the express written direction, request or with the express written consent of the Seller [(or its directors, employees or agents as successors in title)];
      7. in respect of any Loss in respect of the Buyer Warranties, to the extent the Loss is attributable to, or the amount of such Loss is increased as a result of, any:
         1. legislation not in force at the Closing Date;
         2. change of law (or any change in interpretation on the basis of case law), regulation, directive, requirement or administrative practice occurring after the Closing Date; or
         3. change in the rates of taxation in force at the Closing Date; and
      8. if and to the extent that a breach of the Buyer Warranties is capable of remedy, the Seller shall only be entitled to compensation if it gives the Buyer written notice of the breach and the breach is not remedied within thirty (30) Business Days after the date on which such notice is served on the Buyer. Without prejudice to its duty to mitigate any Loss, the Seller shall provide all reasonable assistance to the Buyer to remedy any such breach.
   6. To the extent permissible under applicable law, for tax purposes, the parties shall treat any payment in respect of any Seller Warranty or Buyer Warranty as an adjustment to the Individual Purchase Price for the Interest to which the payment relates.
   7. Without prejudice to, and subject to, the terms of this Purchase Agreement and the Transaction Documents (which shall prevail in the case of any conflict), the parties acknowledge that the limitations upon the liability of the Seller and the Buyer in this Clause 9 do not exclude and are without prejudice to any limitations or other defences available to such parties under applicable law.
2. Covenants.

Mutual Covenants

* 1. Cooperation. The parties agree that from the date of this Purchase Agreement until the Closing Date they shall:
     1. use all reasonable efforts to cause each Condition set out in this Purchase Agreement to be satisfied in a timely manner;
     2. cooperate fully with each other in furnishing any information or performing any action which is reasonably necessary, practicable and permissible to consummate and make effective the Proposed Transactions;
     3. work cooperatively together toward obtaining the required Approvals; and
     4. cooperate and work in good faith using their respective commercially reasonable efforts to resolve to their mutual satisfaction any issues that may arise following the date of this Purchase Agreement and that could impede or materially delay Closing as a result of any changes to any applicable law or arising from any other unforeseen circumstances.
  2. Tax matters. The Seller and the Buyer shall cooperate in seeking to obtain the agreement of each GP to allocate all items of income, gain, loss, deduction or credit attributable to the applicable Interest for the tax year of the Partnerships in which the Closing Date occurs between the Buyer and the Seller in the manner mutually agreed upon by the Seller and the Buyer; provided such manner is permitted by the terms of the relevant Fund Document[[13]](#footnote-13).
  3. [Access to information. The Seller and the Buyer agree to furnish to the each other, upon written request, at the cost and expense of the requesting party, such assistance and such information (including copies of documents) as the relevant party may reasonably request to enable the relevant party (and/or any of its Affiliates) to comply with its tax obligations and otherwise manage its tax affairs in relation to the ownership and transfer of the Interests and the consummation of the Proposed Transactions.]

Seller Covenants

* 1. Certain conduct pending Closing. The Seller agrees that from the date of this Purchase Agreement until the Closing Date (other than with respect to any Excluded Interest) it shall not (so far as it is able and unless required or permitted by the terms of any Transaction Document, or required by the Fund Documentation or any Law or as may be approved by the Buyer, such approval not to be unreasonably withheld or delayed):
     1. consent to any material amendment, modification or waiver of any of the Fund Documentation;
     2. forgive, release or compromise any obligation of the Funds to pay any material part of an amount it is entitled to receive under the Fund Documentation;
     3. knowingly breach or take action or omit to take any action which might reasonably be expected to cause a breach of the terms of any Fund Documentation in any material respect which might reasonably be expected to have a material effect;
     4. cancel or terminate any of the Fund Documentation or enter into any agreement relating thereto or to the Interests;
     5. create or permit to exist any Lien over any of the Interests;
     6. sell, assign, transfer or otherwise dispose of, solicit bids for, or enter into any discussions with any prospective purchaser relating to the sale of all or any portion of any Interest; or
     7. agree in writing to do any of the above,

provided always that the Seller may take any of the actions set out in Sub-Clauses 9(d)(i), 9(d)(ii) or 9(d)(iii) above if:

* + - 1. the Seller has provided prior written notice to the Buyer of any such intended action; and
      2. the Buyer has:
         1. consented in writing to such action, or
         2. not provided a written response to the Seller by the date set out in the notice provided under Sub-Clause (A) above, it being specified that such date shall be the earlier of: (a) the date falling one (1) Business Day prior to the date on which the Seller is required to provide a response to the relevant GP or relevant board of Directors pursuant to the Fund Documentation or otherwise; or (b) the date falling ten (10) Business Days after the date of the notice provided in Sub-Clause (A) above, in which case the Buyer will be deemed to have consented to such action being taken by the Seller.
  1. Capital Account Balances. The Seller agrees to cooperate with the Buyer to have the GPs and Directors provide the Buyer with the opportunity to verify the Capital Account Balances of the Seller on the books of the Funds.
  2. Notices. The Seller agrees that from the date of this Purchase Agreement until the Closing Date it shall, to the extent lawfully able to do so and subject to any confidentiality requirements to which the Seller may be subject, provide the Buyer with:
     1. copies of all notices, reports, correspondence and other materials sent on or after Cut-Off Date by the Funds (or any partner of the Partnerships) to the Seller;
     2. copies of all notices, reports, correspondence and other materials (including quarterly or annual reports of the Funds or other financial statements or similar information) sent on or after Cut-Off Date by the Seller to the applicable Funds (or any partner of the Partnerships);
     3. notice of receipt and the substance of any notice received by the Seller relating to:
        1. any Distributions in respect of an Interest;
        2. any default or event which, with notice or lapse of time or both, would become a default, under any of the Fund Documentation;
        3. any contemplated, pending or threatened claim, action, suit, proceeding or investigation by any governmental department, commission, board, agency, instrumentality or authority involving or relating to the Funds or the Interests.
  3. Notice and return of Contributions and Distributions From and after Closing, the Seller agrees to [forward to the Buyer][[14]](#footnote-14) free and clear of any withholding, deduction or set off of any kind, any Contributions returned to, or Distributions received by, the Seller in error with respect to any previously transferred Interest to the Buyer, promptly but in no event later than ten (10) Business Days after receipt thereof; provided, however, that if the Buyer acquires knowledge of any of the foregoing at any time, the Buyer shall provide prompt written notice thereof to the Seller.

**Buyer covenants**

* 1. The Buyer agrees:
     1. to request of each GP and Director that the Seller be released from its obligations in respect of the applicable Interest;
     2. that it shall, in respect of each Interest transferred to it, comply with its payment and other material obligations under the terms of the relevant Fund Documentation at all times and promptly notify the Seller if it receives written notice from the Fund of any alleged payment default or of any other circumstance which would entitle the GP or Director, as applicable, to exercise default remedies in respect of such Interest; and
     3. not to create or permit to exist any Lien (other than the Pledge Agreement) over the Interests for so long as the Deferred Payment is outstanding.

1. AIVs.

In the event that prior to the Closing, the Seller is treated as owning an interest in an AIV with respect to an Interest, the parties agree to procure that the interest in the relevant AIV is transferred at the same time as the Interests and on the same terms as set out in this Purchase Agreement. Any AIV partnership agreements, whether or not listed in Schedule I, shall be deemed to be included for all purposes of this Purchase Agreement.

1. Conditions to Closing.
   1. The obligations of the Seller and the Buyer to consummate the Proposed Transactions at Closing shall be conditional on the following conditions having been fulfilled or waived in accordance with this Purchase Agreement on or prior to the Closing Date:
      1. GP Consents and Director Consents. All GP Consents and Director Consents required in respect of the transfer of the Interests to be transferred at Closing from the Seller to the Buyer having been obtained and not revoked (in whole or in part);
      2. Approvals. All other Approvals required in respect of the transfer of the Interests to be transferred at Closing from the Seller to the Buyer having been obtained and not revoked (in whole or in part) in form and substance reasonably satisfactory to the Seller and the Buyer.
      3. Legal Proceedings. No statute, law, code or ordinance or any rule, regulation, decree, proclamation, judgment or order of any nature issued by any court or governmental authority shall be in effect which restrains, prohibits or impairs the consummation of the Proposed Transactions in respect of the Closing, and no claim, suit, action, investigation, inquiry or other proceeding by or before any government body or other person shall be pending or threatened that seeks to restrain, prohibit or impair, or challenges the validity or legality of, the Proposed Transactions at the Closing.
   2. The obligations of the Buyer to consummate the Proposed Transactions at Closing shall be conditional on the following conditions having been fulfilled or waived in accordance with this Purchase Agreement on or prior to the Closing Date:
      1. Warranties. (A) The warranty of the Seller in Clause 7(b) being true and accurate in all respects when made and at and as of the Closing Date; and (B) all other warranties of the Seller being true and accurate in all material respects when made and at and as of the Closing Date, except: (I) to the extent that they expressly refer to an earlier or specific time or date; and (II) for the effect of any activities or transactions which may have taken place after the date of this Purchase Agreement which are specifically contemplated by this Purchase Agreement but provided that if such condition is satisfied with respect to certain Interests but not with respect to other Interests, the Buyer’s obligations to consummate the Proposed Transactions with respect to any Interests with respect to which the condition is satisfied shall be unaffected and if the Buyer elects not to waive this condition with respect to any Interest with respect to which the condition is not satisfied such Interest shall be treated as an Excluded Interest.
      2. Compliance. The Seller having performed all agreements, covenants and obligations and complied with all conditions required by this Purchase Agreement to be performed or complied with by it at (or for the purposes of) the Closing and having delivered to the Buyer the documents to be delivered by it as set out in Clause 5(d).
   3. The obligations of the Seller to consummate the Proposed Transactions at Closing shall be conditional on the following conditions having been fulfilled or waived in accordance with this Purchase Agreement on or prior to the Closing Date:
      1. Warranties. All warranties of the Buyer being true and accurate in all material respects when made and at and as of the Closing Date, except: (A) to the extent that they expressly refer to an earlier or specific time or date; and (B) for the effect of any activities or transactions which may have taken place after the date of this Purchase Agreement which are specifically contemplated by this Purchase Agreement.
      2. Compliance. The Buyer having performed all agreements, covenants and obligations and complied with all conditions required by this Purchase Agreement to be performed or complied with by it at (or for the purposes of) the Closing and having delivered to the Seller the documents to be delivered by it as set out in Clause 5(e).
      3. [Security Legal Opinion. The Security Legal Opinion having been provided to the Seller.]
   4. Each party shall, at its own cost use all reasonable efforts to ensure that the Conditions are fulfilled promptly after the date of this Purchase Agreement and, without limitation, comply with its obligations in respect thereof in accordance with Clause 10.
   5. Each party shall disclose in writing to the other anything which will, or will reasonably be likely to, prevent any of the Conditions from being fulfilled immediately when it comes to its notice.
   6. Any Condition for the benefit of a party may be waived in writing by such party.
2. Indemnification.
   1. Indemnification by the Seller. The Seller agrees to defend, indemnify and hold harmless the Buyer [and its officers, directors, partners, employees, agents, managers, successors and assigns], from and against any and all losses, damages, claims, suits, proceedings, liabilities, costs and expenses (including settlement costs, interest, penalties, reasonable attorneys’ fees and any reasonable legal or other expenses for investigation or defence of any actions or threatened actions), but excluding special, punitive or indirect damages (collectively, “Losses” or “Claims,” as the context requires) which may be imposed, sustained, incurred or suffered or asserted as a result of, relating to or arising out of:
      1. any Excluded Obligation; and
      2. any and all actions, suits, litigations, arbitrations, proceedings, investigations, claims or liabilities of whatever nature arising out of any of the foregoing.
   2. Indemnification by the Buyer. The Buyer agrees to defend, indemnify and hold harmless the Seller [and its officers, directors, partners, employees, agents, managers, successors and assigns] from and against any and all Losses and Claims which may be imposed, sustained, incurred or suffered or asserted as a result of, relating to or arising out of:
      1. any Assumed Obligation; and
      2. any and all actions, suits, litigations, arbitrations, proceedings, investigations, claims or liabilities of whatever nature arising out of any of the foregoing.
   3. To the extent permissible under applicable law, for all tax purposes, the parties shall treat any payment under Sub-Clauses (a) or (b) above as an adjustment to the Individual Purchase Price for the Interest to which such payment relates.
3. Conduct of claims
   1. If the Seller becomes aware of any claim, potential claim, or any other matter or circumstance, which might result in the assertion of a claim against the Buyer in respect of any Assumed Obligations under Clause 13(b) or the Buyer Warranties, the Seller shall:
      1. promptly give written notice after becoming aware of the claim, potential claim, or any other matter or circumstance to the Buyer and ensure that the Buyer is given all reasonable information and detail relating thereto, provided that any failure to give such prompt notice and/or information shall not affect the Seller’s rights hereunder except to the extent that the Buyer is materially and adversely prejudiced thereby in which case the amount recoverable by the Seller shall be reduced to such extent;
      2. in respect of any Third Party Claim not admit liability or make any agreement or compromise in relation to such Third Party Claim without the prior written approval of the Buyer (which approval shall not be unreasonably withheld or delayed);
      3. subject to the Seller being indemnified by the Buyer to its reasonable satisfaction against all out of pocket costs and expenses reasonably incurred in respect of any Third Party Claim in accordance with the terms hereof ensure that it shall:
         1. take such action as the Buyer may reasonably request to avoid, resist, dispute, appeal, compromise or defend the Third Party Claim;
         2. allow the Buyer at its own expense, if it elects to do so by written notice to the Seller within thirty (30) days of receipt of notice of the Third Party Claim (or sooner, if the nature of the Third Party Claim so requires), to take over the conduct of all proceedings and/or negotiations arising in connection with the Third Party Claim; and
         3. cooperate with the Buyer in determining the validity of any such claim and in the compromise, or defence, thereof and provide such information and assistance as the Buyer may reasonably require in connection with the preparation for and conduct of any proceedings and/or negotiations relating to the Third Party Claim.
      4. notwithstanding any other provision of this Clause 14(a), if there is a reasonable likelihood that a Third Party Claim may materially and adversely affect the Seller, other than as a result of money damages or other money payments for which the Seller is entitled to indemnification hereunder, have the right, after consultation with the Buyer and at the cost and expense of the Buyer, to assume the defence of the Third Party Claim in lieu of the Buyer with counsel reasonably acceptable to the Buyer.
   2. If the Buyer becomes aware of any claim, potential claim, or any other matter or circumstance, which might result in the assertion of a claim against the Seller in respect of any Excluded Obligations under Clause 13(a) or the Seller Warranties, the Buyer shall:
      1. promptly give written notice after becoming aware of the claim, potential claim, or any other matter or circumstance to the Seller and ensure that the Seller is given all reasonable information and detail relating thereto, provided that any failure to give such prompt notice and/or information shall not affect the Buyer’s rights hereunder except to the extent that the Seller is materially and adversely prejudiced thereby in which case the amount recoverable by the Buyer shall be reduced to such extent;
      2. in respect of any Third Party Claim not admit liability or make any agreement or compromise in relation to such Third Party Claim without the prior written approval of the Seller (which approval shall not be unreasonably withheld or delayed);
      3. subject to the Buyer being indemnified by the Seller to its reasonable satisfaction against all out of pocket costs and expenses reasonably incurred in respect of any Third Party Claim in accordance with the terms hereof ensure that it shall:
         1. take such action as the Seller may reasonably request to avoid, resist, dispute, appeal, compromise or defend the Third Party Claim;
         2. allow the Seller at its own expense, if it elects to do so by written notice to the Buyer within thirty (30) days of receipt of notice of the Third Party Claim (or sooner, if the nature of the Third Party Claim so requires), to take over the conduct of all proceedings and/or negotiations arising in connection with the Third Party Claim; and
         3. cooperate with the Seller in determining the validity of any such claim and in the compromise, or defence, thereof and provide such information and assistance as the Seller may reasonably require in connection with the preparation for and conduct of any proceedings and/or negotiations relating to the Third Party Claim.
      4. notwithstanding any other provision of this Clause 14(b), if there is a reasonable likelihood that a Third Party Claim may materially and adversely affect the Buyer, other than as a result of money damages or other money payments for which the Buyer is entitled to indemnification hereunder, have the right, after consultation with the Seller and at the cost and expense of the Seller, to assume the defence of the Third Party Claim in lieu of the Seller with counsel reasonably acceptable to the Seller.
   3. Any indemnified party may, at its expense, participate in the defence of a Third Party claim even where the indemnifying party has assumed such defence. The indemnified party shall have the right to employ one counsel to represent the indemnified party if, in the reasonable judgment of the indemnified party, a conflict of interest exists between the indemnified party and the indemnifying party with respect to such Third Party Claim, and in such event the reasonable fees and expenses of such separate counsel shall be paid by the indemnified party, provided, however, that such counsel shall represent the indemnified party only with respect to such matters as to which, in the reasonable judgment of the indemnified party, such conflict of interests exists. The indemnifying party shall not admit liability or make any agreement, settlement or compromise or consent to the entry of any judgement in relation to any such Third Party Claim without the prior written approval of the indemnified party if such agreement, settlement, compromise or judgement: (i) involves a finding or admission of wrongdoing by the indemnified party; (ii) does not include an unconditional written release by the claimant or plaintiff of the indemnified party from all liability in respect of such Third Party Claim; or (iii) imposes equitable remedies or any obligation on the indemnified party other than solely the payment of money damages for which the indemnified party will be indemnified hereunder.

For the purposes of this Clause 14, a “Third Party Claim”shall mean a claim by a third party (including any GP or Director) against the Seller for which it seeks to be indemnified under Clause 14(a) or against the Buyer for which it seeks to be indemnified under Clause 14(b) (as applicable).

1. Confidentiality.
   1. Each party shall (and shall procure that each of its Connected Persons shall):
      1. hold the Confidential Information in confidence;
      2. not copy or reproduce it;
      3. not disclose it to any person other than one of its Connected Persons; and
      4. use the Confidential Information only for the purpose of exercising or performing that party’s rights and obligations under this Purchase Agreement.
   2. Save with the prior written consent of the disclosing party, Sub-Clause 15(a) shall not apply to the extent that:
      1. the Confidential Information is required to be disclosed by Law or by any Governmental Authority. If the receiving party believes that this Sub-Clause (i) apples, it shall, as far as it is practicable and lawful to do so:
         1. first consult the disclosing party to give the disclosing party the opportunity to contest the disclosure;
         2. take into account the disclosing party’s reasonable requirements about the proposed form, timing, nature and extent of the disclosure; and
         3. shall only disclose such Confidential Information as is legally required to fulfil such disclosure requirement;
      2. the Confidential Information is required to be disclosed so that the receiving party can fulfil its obligations under this Purchase Agreement;
      3. the Confidential Information is required to be disclosed for the purpose of satisfying the Conditions;
      4. the Confidential Information was already in the public domain when it was first received by the receiving party;
      5. the Confidential Information subsequently enters the public domain, other than as a result of a breach of Sub-Clause 15(a);
      6. written records show that, when the Confidential Information was first made available to the receiving party, it was already in the lawful possession of the receiving party or any of its Connected Persons;
      7. after it was first made available to them, the receiving party or a Connected Person of the receiving party lawfully received the Confidential Information from a third party who does not owe the disclosing party, or any of its Connected Persons, an obligation of confidence in relation to it; or
      8. the Confidential Information is required to be disclosed for the purpose of any arbitral or judicial proceedings arising out of this Purchase Agreement or any other Transaction Documents.
   3. Each party shall disclose Confidential Information as permitted by this Clause 15 only if it is reasonably required and, in the case of disclosures under Sub-Clauses 15(b)(ii) and 15(b)(iii), only if the party to whom the disclosure is made is informed of the confidential nature of the Confidential Information and acknowledges that it is subject to a duty of confidentiality on substantially the same terms as this Clause 15.
   4. Subject to Sub-Clause 15(e), if this Purchase Agreement terminates, the receiving party shall (and shall procure that its Connected Persons shall), as soon as practicable:
      1. return to the disclosing party (or as they may direct) all written documents and other materials relating to such other party, any Fund or this Purchase Agreement which the disclosing party (or its Connected Persons) have provided to such other party (or their Connected Persons) without keeping any copies thereof;
      2. destroy all information or other documents derived from such Confidential Information;
      3. take reasonable steps to erase such Confidential Information from any computer, word processor or other digital device on which it is held; and
      4. appoint one of its authorised officers to supervise the steps contemplated in Sub-Clause 15(d)(i) to Sub-Clause 15(d)(iii) above and to certify in writing to the disclosing party that such steps have been carried out.

For the purposes of Clause 15(d), “document” includes any material prepared by or on behalf of either party or its Connected Persons.

* 1. Each party and its Connected Persons may retain any Confidential Information to the extent required, and for the time period specified, by any applicable Law, including the rules of any professional body.
  2. If any Interest becomes an Excluded Interest:
     1. the Seller shall have no further obligation to the Buyer to keep confidential any Confidential Information relating to such Interest; and
     2. the Buyer shall, as soon as possible on request by the Seller’s Representative;
        1. return to the Seller (or any other entity as they may direct) all written documents and other materials relating to such Excluded Interest and the relevant Fund without keeping any copies thereof;
        2. destroy all information or other documents derived from such confidential information; and
        3. so far as it is reasonable to do so, erase such Confidential Information from any computer, word processor or other digital device on which it is held.
  3. Each party shall notify the other party as soon as possible if it comes to its attention that, or it has a suspicion that, any of the confidential information has come into the possession of any unauthorised third party or any third party appears to be doing or permitting anything to be done which is likely to prejudice the preservation of the confidential nature of such information.

1. Termination.
   1. By Mutual Consent. This Purchase Agreement may be terminated (other than in respect of the Surviving Provisions) with immediate effect by the mutual written consent of the Buyer and the Seller at any time prior to the Closing for any reason.
   2. [By the Buyer. This Purchase Agreement may be terminated (other than in respect of the Surviving Provisions) and the transactions contemplated by it abandoned with immediate effect upon written notice from the Buyer to the Seller, if the Standard & Poor’s 500 Index falls by more than 10% by reference to the February 12th, 2016 level of 1,865 points at any time prior to the Closing][[15]](#footnote-15).
   3. By the Buyer or the Seller. This Purchase Agreement may be terminated (other than in respect of the Surviving Provisions) and the transactions contemplated by it abandoned by written notice from the Buyer to the Seller, or from the Seller to the Buyer if the Conditions have not been satisfied (or waived) and/or the Closing has otherwise not taken place in accordance with Clause 5 on or before the long stop date and no party shall have any claim against any other except in respect of any breach or other liability which has arisen or accrued prior to termination or under any of the Surviving Provisions.
2. Tax Matters.

[Any tax returns and other documentation that must be filed with respect to Transfer Taxes shall be prepared and filed when due by the party primarily or customarily responsible under the applicable local law for the filing of such tax returns or other documentation, and such party will use its commercially reasonable efforts to provide such tax returns and other documentation to the other party at least ten (10) Business Days prior to the due date for such tax returns and other documentation.]

1. General Provisions.

Costs and expenses.

* 1. Except as otherwise expressly provided in this Purchase Agreement, the parties shall each be responsible for their own costs and expenses (including those of their Connected Persons) incurred in connection with the entering into and completion of this Purchase Agreement.
  2. Subject to Clause 18(c), the Seller and the Buyer shall bear (directly or indirectly) equally:
     1. all reasonably incurred costs and expenses (including attorneys’ and accountants’ fees) of the Funds, the GPs and the Directors payable in connection with the transfer of the Interests (to the extent that they require these to be paid as a condition of granting the GP Consents and the Director Consents); and
     2. all Transfer Taxes arising as a result of this Purchase Agreement or any of the other Transaction Documents.
  3. If any Transfer Taxes arise solely as a result of any Offshored Document being entered into and exchanged inside, or subsequently being brought into, the United Kingdom by either the Buyer of the Seller in breach of their obligations under Clause 5(g), then the party in breach of its obligations shall bear any such Transfer Taxes.
  4. Notices. All notices, including requests, demands and other communications required or permitted under or made in connection with this Purchase Agreement, shall be in writing in English and signed by or on behalf of the person giving the notice. A notice shall be deemed to have been received (i) at the time of delivery, if delivered by hand, registered post or courier, or (ii) at the time of transmission if delivered by email, or (iii) five (5) days after the date of postage if delivered by air mail, with postage prepaid. The addresses and email addresses of the parties for the purposes of this cause are:
     1. **If to the Seller, to:**

ANZ Staff  
Superannuation (Australia) Pty Limited  
[Address]  
[Address c’td]  
Attn: [•]  
[email]

[**with copies to:**

Freshfields Bruckhaus Deringer LLP  
65 Fleet Street,   
London, EC4Y 1HS  
Attn: Claire Wills  
claire.wills@freshfields.com

or to such other person or address as Seller shall notify to the Buyer in writing.

* + 1. **If to the Buyer, to:**

SB Partners SIF SICAV S.A.  
62 avenue de la Liberté  
L1930, Luxembourg, Grand Duchy of Luxembourg  
Attention: Charles Meeus  
cmeeus@sb-partners.lu

**with copies to:**

BEX Capital S.A.S.  
10 rue Chardin  
F-75016, Paris, France  
Attention: Benjamin Revillon  
revillon@bexcapital.com

and

M B A - Moisand, Boutin & Associés  
4 avenue Van Dyck  
F-75008 Paris, France  
Attn: Igor Doumenc  
idoumenc@mba-avocats.com

or to such other person or address as Buyer shall furnish to the Seller in writing.

* 1. Assignment. Neither this Purchase Agreement nor any of the rights, interests or obligations under this Purchase Agreement may be assigned transferred, charged, granted, declared, created, disposed of or otherwise dealt with by any party (whether by operation of Law or otherwise) without the prior written consent of the other parties to this Purchase Agreement and any attempt to do so will be void. Subject to the preceding sentence, this Purchase Agreement and all of its provisions shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.
  2. Governing Law; Jurisdiction. This Purchase Agreement and any dispute or claim arising out of or in connection with it or its subject matter, whether of a contractual or non-contractual nature, shall be governed by and interpreted in accordance with the law of England and Wales.
  3. Determination of Adjustment Amount. In the event of any dispute between the parties in relation to any Adjustment Amount calculated by the Seller in accordance with Clause 6(f), the dispute shall be referred to such member of senior management of the Buyer and the Seller as each party shall notify to the other (together the “Senior Executives”).
  4. Escalation. The Senior Executives shall discuss the matter in good faith and attempt to reach a decision on the same. If the Senior Executives fail to reach a decision within 15 days of the matter being referred to them the dispute will be resolved in accordance with Clause 17(i) below.
  5. Arbitration. Subject to Clause 17(g) to 17(h) above, the parties irrevocably agree that all disputes arising out of or in connection with this Purchase Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with said Rules. The language to be used in the arbitral proceedings shall in English. The place of arbitration shall be [Paris][[16]](#footnote-16).
  6. Counterparts. This Purchase Agreement may be executed in two or more identical counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
  7. Entire Agreement. This Purchase Agreement, including the Schedules hereto, and the other Transaction Documents set out the entire agreement between the parties in respect of the subject matter of this Purchase Agreement and supersede all drafts, agreements, understandings, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any [officer, employee or representative] of any party relating to the Proposed Transactions.
  8. Amendment. This Purchase Agreement may be amended only by a written instrument executed by all of the parties to it. If this Purchase Agreement is varied:
     1. the variation shall not constitute a general waiver of any provisions of this Purchase Agreement;
     2. the variation shall not affect any rights, obligations or liabilities under this Purchase Agreement that have already accrued up to the date of variation; and
     3. the rights and obligations of the parties under this Purchased Agreement shall remain in force, except and only to the extent that they are varied.
  9. Waiver. No failure to exercise, or delay in exercising, any right under this Purchase Agreement or any other Transaction Document or right under this Purchase Agreement or any other Transaction Document or provided by Law shall affected that right or operate as a waiver of the right. The single or partial exercise of any right under this Purchase Agreement or any other Transaction document or provided by Law shall not preclude any further exercise of it. A right under this Purchase Agreement or any other Transaction Document or provided by Law [may only be waived] and any such waiver shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.
  10. Third party rights. Each of the [indemnified persons] may, under the Contracts (Rights of Third Parties) Act 1999, enforce the terms of Clause 13. This right is subject to: (i) the rights of the parties to rescind or vary this Purchase Agreement and any other Transaction Document without the consent of any [indemnified person]; and (ii) the other terms and conditions of this Purchase Agreement and any other Transaction Document.
  11. Except as set out in Sub-Clause (n) above, a person who is not a party to this Purchase Agreement or any other Transaction Document shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.
  12. Publicity. No communication, publicity release or announcement in connection with the existence or subject matter of this Purchase Agreement or the Proposed Transactions shall be made by either party (or their Connected Persons) without the prior written consent of the other party. The restriction in this Clause shall not apply to the extent that the announcement or communication is required by Law, by any stock exchange or by any Governmental Authority of competent jurisdiction, whether or not the requirement has the force of law. In this exception applies, the party making the announcement or issuing the communication shall, as far as reasonably practicable, use reasonable endeavours to consult with the other party in advance as to what form it takes, what it contains and when it is issued.
  13. Additional Documents and Acts. Each of the parties and its Affiliates shall execute and deliver such additional documents, certificates and instruments, and to perform such additional acts, as may be reasonably requested and as may be reasonably necessary to implement and give effect to the Transaction Documents and to consummate the Proposed Transactions.
  14. Specific Performance. The Buyer and the Seller hereby acknowledge and agree that money damages would not be a sufficient remedy for any breach of any provision of this Purchase Agreement by the other. In such event, each party agrees that the other party shall have the right, in addition to any other rights it may have (whether at law or in equity), to seek specific performance and injunctive or other equitable relief as a remedy for any such breach of this Purchase Agreement.
  15. Conflicts with other agreements. In the event of any inconsistency or conflict between the terms and provisions of this Purchase Agreement and any other agreement, the terms and provisions of any document executed by the Buyer and/or Seller in connection with obtaining the Approvals, the terms and provisions of this Purchase Agreement shall prevail (as between the parties to this Purchase Agreement and as between any Affiliates of either party) to the extent of the inconsistency unless:
      1. the other agreement expressly states that it overrides this Purchase Agreement in the relevant respect; and
      2. the parties:
         1. are also parties of that other agreement; or
         2. expressly agree in writing that the other agreements overrides this Purchase Agreement in that respect,
  16. Severability. Each of the provisions of this Purchase Agreement is severable. If and to the extent that any term, provision, agreement, covenant or restriction of this Purchase Agreement;
      1. becomes, or is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, under the Law of any jurisdiction; but
      2. would be valid, binding and enforceable is some part of this provision were deleted or amended,

then the provision shall apply with the minimum modifications necessary to make it valid, binding and enforceable and the remainder of the terms, provisions, agreements, covenants and restrictions of this Purchase Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated. The parties shall negotiate in good faith to amend or replace any invalid, void or enforceable provision with a valid binding and enforceable substitute provision or provisions, so that, after the amendment or replacement, the commercial effect of this Purchase Agreement is as close as possible to the effect it would have had if the relevant provision had not been invalid, void or unenforceable.

* 1. Force majeure. Neither party shall be liable for any failure to perform, or delay in performing, any obligation under this Purchase Agreement, if the failure or delay results from any circumstance beyond its reasonable control. The affected party shall be entitled to a reasonable extension of the time for performing the obligation.
  2. Legal relationship. Nothing in this Purchase Agreement shall constitute a partnership between the parties nor make either party the agent of the other party for any purpose.

**[Remainder of Page Intentionally Left Blank]**

**IN WITNESS WHEREOF**, the parties have executed this Purchase Agreement, acting by their duly authorised agents, as of the date first above written.

**SELLER: BUYER:**

**ANZ STAFF SUPERANNUATION SB PARTNERS SIF SICAV S.A.  
(AUSTRALIA) PTY LTD**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: • Name: Erich Bonnet

Title: • Title: Chairman

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: • Name: Ghislaine Sanchez

Title: • Title: Director

1. 1. : The Partnerships
      1. Morgan Stanley Private Markets Fund III LP

| **Currency** | **Commitment** | **Capital Account Balance as of Cut-Off Date** | **Contributions Since the Cut-Off Date** | **Distributions Since the Cut-Off Date** | **Undrawn Fund Commitment as of the Cut-Off Date** | **Base Purchase Price** | **Estimated Individual Purchase Price** |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  | $[10,188,760.89] |  |

* + 1. Morgan Stanley Private Markets Fund IV (Cayman) LP

| **Currency** | **Commitment** | **Capital Account Balance as of Cut-Off Date** | **Contributions Since the Cut-Off Date** | **Distributions Since the Cut-Off Date** | **Undrawn Fund Commitment as of the Cut-Off Date** | **Base Purchase Price** | **Estimated Individual Purchase Price** |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  | $[22,615,489.24] |  |

* + 1. Pantheon Global Secondary Fund III "A" LP

| **Currency** | **Commitment** | **Capital Account Balance as of Cut-Off Date** | **Contributions Since the Cut-Off Date** | **Distributions Since the Cut-Off Date** | **Undrawn Fund Commitment as of the Cut-Off Date** | **Base Purchase Price** | **Estimated Individual Purchase Price** |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  | $[5,864,288.72] |  |

* 1. : The Companies
     1. Pantheon Europe Fund IV Limited

| **Currency** | **Total number of [ ] shares** | **Contributions since the Cut-Off Date** | **Distributions since the Cut-Off Date** | **Total number of [ ] shares** | **Base Purchase Price** | **Estimated Individual Purchase Price** |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  | €[5,017,341.12] |  |

* + 1. Pantheon USA Fund VI Limited

| **Currency** | **Total number of [ ] shares** | **Contributions since the Cut-Off Date** | **Distributions since the Cut-Off Date** | **Total number of [ ] shares** | **Base Purchase Price** | **Estimated Individual Purchase Price** |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  | $[13,460,346.99] |  |

1. List of Fund Documentation

|  |  |
| --- | --- |
| **Fund** | **Fund Documentation** |
| Morgan Stanley Private Markets Fund III LP | The amended and restated limited partnership agreement dated 11 April 2006.  The subscription booklet dated 24 March 2006.  [The private placement memorandum dated [•].][[17]](#footnote-17) |
| Morgan Stanley Private Markets Fund IV (Cayman) LP | The amended and restated limited partnership agreement dated 26 November 2007.  The subscription booklet (undated).  [The private placement memorandum dated [•].] |
| Pantheon Global Secondary Fund III "A" LP | The amended and restated limited partnership agreement dated 11 October 2006.  The private placement memorandum dated June 2006. |
| Pantheon Europe Fund IV Limited | The memorandum and articles of association registered on 4 June 2004.  The private placement memorandum (undated).  [The share register of Pantheon Europe Fund IV Limited.] |
| Pantheon USA Fund VI Limited | The memorandum and articles of association registered on 4 June 2004.  The private placement memorandum (undated).  [The share register of Pantheon USA Fund VI Limited.] |

Contributions after Cut-Off Date

|  |  |  |
| --- | --- | --- |
| **Fund** | **Date** | **Amount of Contribution** |
| Morgan Stanley Private Markets Fund III LP |  |  |
| Morgan Stanley Private Markets Fund IV (Cayman) LP |  |  |
| Pantheon Global Secondary Fund III "A" LP |  |  |
| Pantheon Europe Fund IV Limited |  |  |
| Pantheon USA Fund VI Limited |  |  |

Distributions after Cut-Off Date

|  |  |  |
| --- | --- | --- |
| **Fund** | **Date** | **Amount of Distribution** |
| Morgan Stanley Private Markets Fund III LP |  |  |
| Morgan Stanley Private Markets Fund IV (Cayman) LP |  |  |
| Pantheon Global Secondary Fund III "A" LP |  |  |
| Pantheon Europe Fund IV Limited |  |  |
| Pantheon USA Fund VI Limited |  |  |

1. Wire Transfer Instructions

|  |  |
| --- | --- |
| Seller  (€ account) | Bank**:**  Account name**:**  Address**:**  SWIFT**:**  IBAN**:** |
| Seller  ($ account) | Bank**:**  Account name**:**  Address**:**  SWIFT**:**  IBAN**:** |

|  |  |
| --- | --- |
| Buyer  (€ account) | Bank**:**  Account name**:**  Address**:**  SWIFT**:**  IBAN**:** |
| Buyer  ($ account) | Bank**:**  Account name**:**  Address**:**  SWIFT**:**  IBAN**:** |

1. Pledge Agreement
2. Escrow Agreement
3. Offshoring Guidelines
   * + 1. The Buyer and the Seller agree that any party acting in compliance with the following guidelines shall be treated for the purposes of Clause 5(f) of this Purchase Agreement as having discharged all and any of its obligations to enter into, exchange and maintain (in respect of originals and counterparts) Offshored Documents outside the United Kingdom, notwithstanding any subsequent determination by a court, tribunal or tax authority that the relevant party has brought an Offshored Document into the United Kingdom for stamp duty purposes. For the avoidance of doubt, if a failure by any party to follow one or more of the below guidelines does not result in Clause 5(f) of this Purchase Agreement being breached then such breach of the below guidelines shall not in itself constitute a breach by that party of its offshoring obligations under Clause 5(f) of this Agreement.

Physical or “wet ink” exchange of documents

* + - 1. Offshored Documents should be signed/executed and exchanged outside the United Kingdom.
      2. “Wet ink” originals and counterparts should not be sent into the United Kingdom.

Electronic exchange of documents

* + - 1. Offshored Documents should be signed/executed outside the United Kingdom.
      2. Electronic scans, photocopies, PDFs etc. of any “wet ink” originals and counterparts shall be treated as Offshored Documentation for the purposes of this Schedule VI, and, subject to Clauses 11 and 12 of this Schedule VI, should not be sent into the United Kingdom (either electronically or physically).
      3. During the electronic exchange process, individuals should not be present in the United Kingdom while sending, receiving or opening emails with original and counterpart Offshored Documents attached. A document shall only be deemed to have been electronically “sent into the United Kingdom” for the purposes of this Schedule VI if the recipient was present in the United Kingdom while receiving such document or opening an email with such document attached.
      4. If Offshored Documents are required to be sent into the United Kingdom for the purposes of final review by legal counsel before exchange (e.g. if exchange occurs by way of release of signatures from escrow), such Offshored Documents may be sent into the United Kingdom by following the steps in Clause 11 of this Schedule VI below.

Post-exchange offshoring

* + - 1. All original and counterpart Offshored Documents should be kept and maintained outside the United Kingdom.
      2. If possible, each party should print off one original paper copy of each executed Offshored Document, and designate such Offshored Document as the “Master Original”.
      3. The “Master Originals” should be kept outside the United Kingdom and ideally at one location, under the control of an individual that is aware of these Offshoring Guidelines.
      4. Copies of executed Offshored Documents (or any signed counterparts) may be sent into or brought into the United Kingdom.  Before: (a) circulating any electronic copies (including CD bibles); or (b) bringing any paper copies of documents into the United Kingdom, the relevant party should take a photocopy of the Offshored Document in question and mark or stamp that photocopy as “copy”.  That marked photocopy may then be sent into or brought into the United Kingdom.
      5. If there are any practical difficulties with executing and maintaining Offshored Documents outside the United Kingdom (e.g. if required to be sent into the United Kingdom by a GP of any of the Partnerships or a Director of any of the Companies), the parties shall cooperate in seeking to agree an alternative arrangement whereby Offshored Documents can be executed and maintained outside the United Kingdom. Provided that the Seller has complied with all commercially reasonable requests made by the Buyer or the relevant GP or Directors for these purposes, any failure to execute or maintain an Offshored Document outside the United Kingdom shall not constitute a breach by the Seller of their offshoring obligations under Clause 5(f) of this Purchase Agreement.

1. To determine whether the shares in the companies are fully paid up. Is there any commitment to provide further funding under the Company Documentation? [↑](#footnote-ref-1)
2. Or vice versa if preferred. To discuss appropriate point in time to deal with currency conversion generally. [↑](#footnote-ref-2)
3. I’ve deleted references to this agreement as this agreement is not the subject of the transfers and the carve outs therefore don’t apply. A breach of this agreement is simply a breach of this agreement and subject to the general limitations. [↑](#footnote-ref-3)
4. To consider – are there are potential FIRPTA issues? [↑](#footnote-ref-4)
5. I am not sure I follow the reference to WHT in the original draft – by definition wouldn’t such amount have already been deducted before the Seller gets its hands on the amount? i.e. it wouldn’t get a tax bill for WHT. [↑](#footnote-ref-5)
6. Amend if FIRPTA an issue – to be discussed. [↑](#footnote-ref-6)
7. Alternatively we could provide for referral to an expert. [↑](#footnote-ref-7)
8. Or vice versa if preferred. [↑](#footnote-ref-8)
9. The Escrow Account is a single account. We have assumed that any Distributions received that are not Euro amounts will be converted to Euro amounts when credited to the Escrow Account. The conversion rate should be set out in the Escrow Agreement – presumably the applicable conversion rate on the applicable day. [↑](#footnote-ref-9)
10. Will the Escrow Agent keep track of the payments being made to the Seller, so that it has oversight of when the full amount of the Deferred Payment has been paid (if prior to the end of the 24 month deferral period)? [↑](#footnote-ref-10)
11. To discuss how in-kind distributions will be held in escrow/applied against the Deferred Payment. [↑](#footnote-ref-11)
12. Shares fully paid up? [↑](#footnote-ref-12)
13. Is this relevant to the Companies? [↑](#footnote-ref-13)
14. Into Escrow/deduct from Deferred Payment until deferred payment received? [↑](#footnote-ref-14)
15. Note that the Offer Letter specifies that the Buyer may ‘revise’ its offer in these circumstances. [↑](#footnote-ref-15)
16. To be confirmed with ANZ. [↑](#footnote-ref-16)
17. Additional documents to be provided for review. [↑](#footnote-ref-17)